
CARMEL CITY CODE
CHAPTER 10: ZONING & SUBDIVISIONS
ARTICLE 1: ZONING CODE
CARMEL/CLAY ZONING ORDINANCE
CHAPTER 22: FLOOD HAZARD DISTRICTS

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22.00 Flood Hazard Districts.

22.01 Statutory Authorization.

The Indiana Legislature granted the power to local units of government to control land use within their jurisdictions which affect special flood hazard areas in order to provide uninterrupted greenways that control flooding, improve water quality by filtering waterborne pollutants, provide habitat for highly varied flora and fauna, and also contain wetland areas which are some of the most biologically productive lands within the jurisdiction.

22.02 Statement of Purpose.

The purpose of this Ordinance is to guide development in the flood hazard areas in order to reduce the potential for:

1. Loss of life and property;
2. Health and safety hazards;
3. Extraordinary public expenditures for flood protection and relief.

Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the affects of flooding, the Common Council for the City of Carmel hereby adopts the following floodplain management regulations in order to accomplish the following:

- A. to prevent unwise developments from increasing flood or drainage hazards to others;
- B. to protect new buildings and major improvements to buildings from flood damage;
- C. to protect human life and health from the hazards of flooding;
- D. to lessen the burden on the taxpayer for flood control projects, repair to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- E. to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and,
- F. to make federally subsidized flood insurance available for property in the zoning jurisdiction of the City of Carmel by fulfilling the requirements of the National Flood Insurance Program.

22.03 The Duties of the Director of the Department of Community Services.¹

The Director for the Department of Community Services is appointed to review all development and subdivision proposals to insure compliance with this Ordinance, including but not limited to the following duties:

- A. Ensure that all development activities within the “Special Flood Hazard Areas” (SFHA) of the jurisdiction of the City of Carmel/Clay Township meet the requirements of this ordinance.
- B. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- C. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to *Section 22.06* of this Ordinance and maintain a record of such authorization (either copy of actual permit or letter of recommendation).
- D. Maintain a record of the “as-built” elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA.
- E. Maintain a record of the engineer’s certificate and the “as-built” floodproofed elevation of all building subject to *Section 22.07* of this Ordinance.
- F. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this Ordinance. Submit reports as required for the National Flood Insurance Program.
- G. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, copies of DNR permits and letters of recommendation, federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
- H. Notify adjacent communities and the State Coordinating Officer prior to any alteration or relocation of a watercourse, and submit copies of such notification to FEMA.

22.04 Regulatory Flood Elevation.²

This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed

¹ *Section 22.03 amended per Ordinance No. Z-339; Z-401-03, §a.*

engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- A. The regulatory flood elevations for the SFHAs of White River, Cool Creek, Hot Lick Creek, Williams Creed, Henley Creek, and Carmel Creek, within Clay Township, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of the City of Carmel dated February 19, 2003, and the corresponding Flood Insurance Rate Maps, dated February 19, 2003, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- B. The regulatory flood elevation for each SFHA delineated as an “AH Zone” or “AO Zone” shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the City of Carmel.
- C. The regulatory Flood Elevation for each of the remaining SFHAs delineated as an “A Zone” on the Flood Insurance Rate Map of the City of Carmel shall be according to the best data available as provided by the Department of Natural Resources.

22.05 Improvement Location Permit For Construction Within The Special Flood Hazard Zone (SFHA).³

No person, firm, corporation, or governmental body, not exempted by state law shall commence any “development” in the SFHA without first obtaining an Improvement Location Permit from the Department of Community Services. The Department of Community Services shall not issue an Improvement Location Permit if the proposed “development” does not meet the requirements of this ordinance.

- A. The application and materials required for an Improvement Location Permit shall be accompanied by the elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD).
- B. Upon receipt of an application for an Improvement Location Permit, the Director shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined.
 - 1. If the site is in a identified floodway the Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of IC 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving *etc.* undertaken before the actual start of construction.

No action shall be taken by the Director until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Director may issue an Improvement Location Permit, provided the provisions contained in *Sections 22.06* and *22.07* of this Ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.
 - 2. If the site is located in an identified floodway fringe, then the Director may issue an Improvement Location Permit provided the provisions contained in *Sections 22.06* and *22.07* of this Ordinance have been met. The lowest floor of any new or substantially

² Section 22.04 amended per Ordinance No. Z-339; Z-401-03, §b.

³ Section 22.05 amended per Ordinance No. Z-339; Z-401-03, §c.

improved structure shall be at or above the Flood Protection Grade (two (2) feet above the 100-year elevation as specified by Section 312 Indiana Administrative Code 10).

3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as zone A on the Flood Insurance Rate map), and the drainage area upstream of the site is greater than one (1) square mile, the Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Director until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Director has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in *Sections 22.06* and *22.07* of this Ordinance have been met.

4. If the site is an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one (1) square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site. Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in *Sections 22.07* and *22.08* of this ordinance have been met.

22.06 Preventing Increased Damages.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights, velocity, or threat to public health and safety.

- A. Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map, the following standards shall apply:
 1. No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and
 2. For all projects involving channel modifications or fill (including levees) the City shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.
- B. Within all SFHAs identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided) the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
- C. Public Health Standards in all SFHAs:
 1. No development in the SFHA shall include location or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade (FPG), unless such materials are stores in a storage tank or floodproofed building constructed according to the requirements of *Section 22.08* of this Ordinance.

2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPG are watertight.

22.07 Protecting Existing Buildings⁴

In addition to the damage prevention requirements of *Section 22.06*, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- A. This building protection requirement applies to the following situations:
 1. construction or placement of any new building having an enclosed area greater than four hundred (400) square feet;
 2. structural alterations made to:
 - a. an existing (previously unaltered) building, the cost of which equals or exceeds fifty percent (50%) of the value of the pre-altered building (excluding the value of the land);
 - b. any previously altered building;
 3. installing a manufactured home on a new site or a new manufactured home on an existing site. This Ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and,
 4. placement of a recreational vehicle on a site for more than one hundred eighty (180) days.
- B. This building protection requirement may be met by one of the following methods. The Director shall maintain a record of compliance with these building protection standards as required in *Section 22.03* of this Ordinance.
 1. A residential or non-residential building may be constructed on a permanent grade or fill in accordance with the following:
 - a. The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with the Standard Proctor Test method.
 - b. The fill should extend at least ten (10) feet beyond the foundation of the building before sloping below the FPG.
 - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
 - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e. The lowest floor (see definition of Lowest Floor) shall be at or above the FPG.

⁴ *Section 22.07 amended per Ordinance No. Z-339; Z-401-03, §d-h.*

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2. A residential or non-residential building may be elevated in accordance with the following:
- a. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - 1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two (2) openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 - 2) Any enclosure below the elevated floor is used for storage of vehicles and building access.
 - b. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.
 - c. All areas below the FPG shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
3. Manufactured homes and travel trailers (also called recreational vehicles) to be installed or substantially improved on a site for more than one hundred eighty (180) days must meet one of the following anchoring requirements:
- a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:
 - 1) outside a manufactured home park or subdivision;
 - 2) in a new manufactured home park or subdivision;
 - 3) in an expansion to an existing manufactured home park or subdivision; or,
 - 4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
 - b. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

4. Recreational vehicles placed on site shall either:
 - a. be on the site for less than one hundred eighty (180) consecutive days;
 - b. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or,
 - c. meet the requirements for “manufactured homes” in *paragraph 3* of this Section.
5. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
 - a. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, static pressures, and impacts from debris or ice.
 - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

22.08 Other Development Requirements.

- A. The Director shall review all proposed subdivisions to determine whether the subdivision lies in a SFHA. If the Director finds the subdivision to be so located, the Director shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The subdivision Development Plan shall show:
 1. consistency with the need to minimize flood damages;
 2. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 3. adequate drainage will be provided so as to reduce exposure to flood hazards;
 4. on-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- B. Developers shall indicate the 100-year flood elevation on all subdivision plats containing lands identified as SFHA prior to submitting the plats for approval by the Plan Commission.

22.09 Variances.

The Board of Zoning Appeals may issue a variance to the terms and provisions of this Ordinance subject to the following standards and conditions:

1. No variance or exception for a residential use within a floodway subject to *Section 22.06 (a)* or *(b)* may be granted.
2. Any variance or exception granted in a floodway subject to *Section 22.06 (a)* or *(b)* will require a permit from Natural Resources.
3. Variances or exceptions to the Building Protection Standards of *Section 22.07* may be granted only when a new structure is to be located on a lot of one-half (½) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the Flood Protection Grade.

4. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
5. All variances shall give the maximum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

22.10 Disclaimer of Liability.⁵

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this Ordinance does not create any liability on the part of the community, the Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this Ordinance or any administrative decision made lawfully thereunder.

22.11 Violations.⁶

Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this Ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Carmel/Clay Township, and shall be subject to citation and fine in accordance with *Chapter 34: Zoning Violations*.

- A. A separate offense shall be deemed to occur for each day the violation continues to exist.
- B. The Carmel/Clay Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- C. Nothing herein shall prevent the City of Carmel/Clay Township from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

22.12 Abrogation and Greater Restrictions.⁷

This Ordinance repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program. However, this Ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Ordinance or other Ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more restrictive restrictions shall take precedence. In addition, the City Council shall assure that all National Flood Insurance regulations (Contained in 44 CFR 60.3) and State Floodplain Management regulations and laws (312 IAC 10, IC 14-28-1 and IC 14-28-3) are met.

⁵ Section 22.10 amended per Ordinance No. Z-401-03, §i.

⁶ Section 22.11 amended per Ordinance No. Z-339; Z-401-03, §j.

⁷ Section 22.12 amended per Ordinance No. Z-401-03, §k.

22.13 Separability.

The provisions and sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

22.14 Effective Date.

This Ordinance shall take effect upon its passage by the Common Council for the City of Carmel.⁸

- A. All prior Ordinances or parts thereof inconsistent with any provisions of this Ordinance are hereby repealed.
- B. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

22.15 Definitions.⁹

Terms used in this Ordinance are defined in *Chapter 3: Definitions*.

⁸ Ordinance No. Z-287 effective Monday, October 4, 1993.

⁹ Section 22.15 adopted per Ordinance No. Z-311. Amended per Ordinance No. Z-339; Z-401-03, §l-m; Z-416-03, §b-c.

**CHAPTER 22: FLOOD HAZARD DISTRICTS
AMENDMENT LOG**

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected
Z-311				
Z-339				
Z-401-03	150-02a OA	January 6, 2003	January 6, 2003	22.03; 22.04; 22.05; 22.07; 22.10; 22.11; 22.12; 22.15 Winter 2003 v1
Z-416-03	40-02 OA	November 17, 2003	November 18, 2003	22.15 Autumn 2003 v1

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